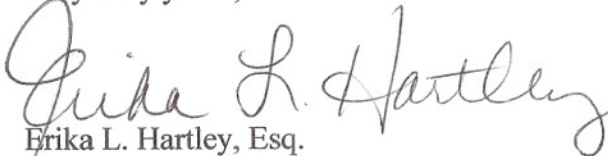


Date: October 9, 2007

Per the procedural federal removal statute cited as 28 USC 1446(b), a party seeking removal of an action from State to Federal Court must take removal action within thirty days of the service of the initial pleading in the action. Here, the defendants Notice of Removal was filed with this Court on September 28, 2007 and the initial pleadings were served in this action on July 31, 2007. As such, the Notice of removal is untimely in that the removal of the action occurred twenty-nine days beyond the thirty day period afforded under the removal statute. LaFarge Coppee v. Venezolana De Cementos, S.A.C.A., 31 F.3d 70 (2d Cir. 1994); In Re NASDAQ Market Makers Antitrust Litigation, 929 F. Supp. 174, (S.D.N.Y. 1996); St. Vincent's Hospital of Staten Island v. Antoinette Taylor, 2007 U.S. Dist. LEXIS 58526 (E.D.N.Y. 2007); Codapro Corp. V. Robert C Wilson et al., 997 F. Supp. 322, 1998 U.S. Dist. LEXIS 2141 (E.D.N.Y. 1998); State of New York v. Lutheran Center for the Aging, Inc., 957 F. Supp. 393, 1997 WL 80019 (E.D.N.Y. 1997).

It is also brought to the Court's attention that a motion seeking leave to file a late notice of claim was filed with the State Court in July 2007. The motion remains pending in the State Court in light of defendants untimely removal of the case to Federal Court. In light of all of the above, it is respectfully requested that permission be granted for the filing of a motion to remand this matter to State Court pursuant to 28 USC § 1447. Thank you for your consideration in this matter.

Very truly yours,


Erika L. Hartley, Esq.

Enclosures: Notice of Claim
Summons with Notice with receipt for filing
Affidavits of Service

cc: Miranda Sokoloff Sambursky Slone Vernveniotis LLP
570 Taxter Road, Suite 561
Elmsford New York 10523

LUIS TORRES, JR.,

Plaintiff,

-against-

TOWN OF WALLKILL, P.O. DENNIS ROLON,
P.O. HUGO BOSS and JOHN DOE POLICE
OFFICERS 1-2,

Defendants.

Index No. **2007 5882**

SUMMONS WITH NOTICE

Filed With the Court on

7-2-07

Plaintiff designates Orange County
as the place for trial and venue is
based upon defendant's residence.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to and
to serve a copy of your answer, or if the complaint is not served with this summons, to serve a
notice of appearance on the Plaintiff Attorney(s) within twenty (20) days after service of this
summons exclusive of the day of service (or within thirty (30) days after the service is complete
if this summons is not personally delivered to you within the State of New York); and in the case
of your failure to appear, judgment will be taken against you by default for the relief demanded in
the complaint.

PLEASE TAKE FURTHER NOTICE that the nature of the action, and the relief
sought, is to recover monetary damages for plaintiff's unlawful false arrest, malicious
prosecution, civil rights violations, ADA violations, assault, battery, negligence, negligent hiring

FILED
ORANGE COUNTY CLERK
2007 JUL -2 PM 3:12

- AGAINST -

Plaintiff(s)/Petitioner(s)

TOWN OF WALLKILL, P.O. DENNIS ROLON, P.O. HUGO BOSS AND JOHN DOE
POLICE OFFICERS 1-2

Defendant(s)/Respondent(s)

COURT D/T:

AMOUNT:

STATE OF NEW YORK COUNTY OF ORANGE ss:

THE UNDERSIGNED DEPONENT BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER
THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF PENNSYLVANIA.

that on 7/31/07

at 2:20 PM at TOWN OF WALLKILL POLICE DEPT.

99 TOWER DRIVE, BUILDING B, MIDDLETOWN, NEW YORK 10941

deponent served the within SUMMONS WITH NOTICE WITH INDEX # AND DATE OF FILING ENDORSED THEREON

P.O. HUGO BOSS MORE CORRECTLY KNOWN AS KELLY BOSS

therein named

SUITABLE AGE

By delivering a true copy thereof to and leaving with MARY OLSEN, CO-WORKER
a person of suitable age and discretion, the said premises being the defendants - respondents

dwelling place



place of business



last known address

within the State of New York



AND AT THE SAME TIME PAYING IN ADVANCE

THE AUTHORIZED FEE

DESCRIPTION

Deponent describes the Individual served as follows:

FEMALE, WHITE SKIN, BROWN HAIR, 60-70 YRS., 5'3"-5'6", 125-135 LBS.

Other identifying features:

GLASSES

MAILING

Deponent completed said service under the last two sections by depositing a copy of the above named process
in a postpaid properly addressed envelope in an official depository under the exclusive card and custody of the
United States Post Office in the State of New York, addressed to the defendant in an envelope bearing the legend
"Personal and Confidential" and not indicating on the outside of the envelope that the communication is from an attorney

Mailed on: 8/1/07



at his last known residence



at his place of business



at his last known address

Address confirmed by:

MILITARY
SERVICEI asked the person spoken to whether defendant was in active military service of the United States or of the state of
New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no
military uniform. The source of my information and the grounds of my belief are the conversations and observations
above narrated.Upon information and belief I aver that the defendant is not in the military service of New York State or of
the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on: 8/1/07

Joseph Shuback

07/2007: PART 1
FF/INDEX #: 5882-07
DATE FILED: 7/2/07
DOCKET #:

- AGAINST -

Plaintiff(s)/Petitioner(s)

TOWN OF WALLKILL, P.O. DENNIS ROLON, P.O. HUGO BOSS AND JOHN DOE
POLICE OFFICERS 1-2

Defendants(s)/Respondent(s)

COURT D/F:
AMOUNT:

STATE OF NEW YORK COUNTY OF ORANGE ss:

THE UNDERSIGNED DEPONENT BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER
THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF PENNSYLVANIA.

at on 7/31/07 at 2:30 PM at 99 TOWER DRIVE, BUILDING A
MIDDLETOWN, NEW YORK 10941

Deponent served the within SUMMONS WITH NOTICE WITH INDEX # AND DATE OF FILING ENDORSED THEREON

TOWN OF WALLKILL

therein name

CORPORATION



By delivering to and leaving with LOUISA M. INGRASSIA
so served to be the TOWN CLERK

and that he knew the person
of the corporation, and authorized to accept service.



AND AT THE SAME TIME PAYING IN ADVANCE

THE AUTHORIZED FEE

DESCRIPTION

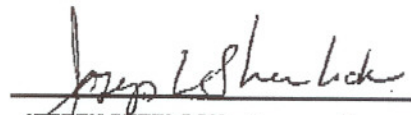
Deponent describes the individual served as follows:

FEMALE, WHITE SKIN, RED/BROWN HAIR, 35-45 YRS., 5'3"-5'5", OVER 300 LBS.

Other Identifying features:

GLASSES

Sworn to before me on: 8/1/07


JOSEPH L. SHEEHAN

OF ORANGE
CORRES, JR.

STONY: PART 1
FF/INDEX #: 5882-07
DATE FILED: 7/2/07
DOCKET #:

- AGAINST -

Plaintiff(s)/Petitioner(s)

TOWN OF WALLKILL, P.O. DENNIS ROLON, P.O. HUGO BOSS AND JOHN DOE
POLICE OFFICERS 1-2

Defendants(s)/Respondent(s)

COURT D/T:

AMOUNT:

STATE OF NEW YORK COUNTY OF ORANGE ss:

THE UNDERSIGNED DEPONENT BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER
THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF PENNSYLVANIA.

That on 7/31/07 at 2:20 PM at TOWN OF WALLKILL POLICE DEPT.
99 TOWER DRIVE, BUILDING B, MIDDLETOWN, NEW YORK 10941

deponent served the within SUMMONS WITH NOTICE WITH INDEX # AND DATE OF FILING ENDORSED THEREON

on P.O. DENNIS ROLON

therein nam

SUITABLE AGE



By delivering a true copy thereof to and leaving with MARY OLSEN, CO-WORKER
a person of suitable age and discretion, the said premises being the defendants - respondents



dwelling place



place of business



last known address

within the State of New York



AND AT THE SAME TIME PAYING IN ADVANCE

THE AUTHORIZED FEE

DESCRIPTION

Deponent describes the individual served as follows:

FEMALE, WHITE SKIN, BROWN HAIR, 60-70 YRS., 5'3"-5'6", 125-135 LBS.

Other identifying features:

GLASSES

MAILING



Deponent completed said service under the last two sections by depositing a copy of the above named process
in a postpaid properly addressed envelope in an official depository under the exclusive card and custody of the
United States Post Office in the State of New York, addressed to the defendant in an envelope bearing the legend
"Personal and Confidential" and not indicating on the outside of the envelope that the communication is from an attorney

Mailed on: 8/1/07



at his last known residence



at his place of business



at his last known address

Address confirmed by:

MILITARY
SERVICE

I asked the person spoken to whether defendant was in active military service of the United States or of the state of
New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no
military uniform. The source of my information and the grounds of my belief are the conversations and observations
above narrated.

Upon information and belief I aver that the defendant is not in the military service of New York State or of
the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on: 8/1/07

Joseph Sheblock
JOSEPH SHEBLOCK